

NAPBS

Attn: Tracy Seabrook  
2501 Aerial Center Parkway  
Suite 103  
Morrisville, NC 27560  
919-459-2082  
919-459-2075 (fax)  
tracy@imiae.com

**National Association of Professional Background Screeners (NAPBS) Comments on the Petition (R-08-0039) to Amend Arizona Supreme Court Rule 123**

The National Association of Professional Background Screeners (“NAPBS”) appreciates the opportunity to submit comments regarding the proposed amendment to Supreme Court Rule 123, specifically related to the access of identifiers within Arizona court records. .

NAPBS is the leading voice of the background screening industry, representing over 600 member companies that provide employment and tenant screening services. In that capacity, NAPBS is active in public affairs and provides a unified voice on issues related to the screening industry including consumer protection and data access. To be distinguished from Private Investigators, the background screening industry relies on access to *complete* public records in order to accurately screen employment and housing candidates. Outside of public records, our background screening is conducted with the consent of the individual as required under federal law.

The Fair Credit Reporting Act (15 USC §1681) requires NAPBS members to maintain procedures that “insure maximum possible accuracy”. Complete court records, including full date of birth, last 4 digits of a Social Security Number, address and complete case information are critical to ensure our members are providing the most accurate information possible to our customers.

The Petition seeks to Amend the Supreme Court Rule 123 and eliminate these critical identifiers from Arizona court records.

We respectfully request you **add an exception for federally regulated Consumer Reporting Agencies** (“CRA’s”), as we are defined under the Fair Credit Reporting Act in Section 603(f). This exception would allow our member companies full access to remote electronic case records in Arizona and could be accomplished by adding CRA’s to your stated exceptions in Appendix A to Rule 123, section (g) entitled “Remote Electronic Access to Case Records”. It could be similar to section (g)(B), which allows access to governmental entities and public purpose organizations as set forth in a memorandum of understanding.

NAPBS has 17 member companies based in Arizona that provide employment and housing background screening services and these services include criminal record information. In addition, members located

in other jurisdictions provide these services for their customers, some of which are also based in Arizona, utilizing Arizona records.

Having an individual's full date of birth ("DOB") and last four digits of their social security number are critical identifiers for public records, including criminal record information. And, unlike a financial account number or identifier, a DOB is not a gateway identifier to financial fraud or identity theft. Having both a full DOB (month/date/year) and a Social Security Number are necessary and critical to insure correct data matching to an individual, as well as to overcome incidences of common names and common birth dates.

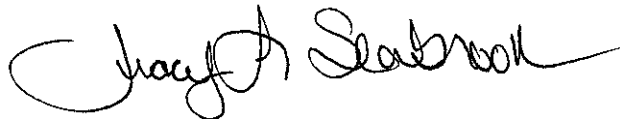
A rule that would prohibit our members, operating under the consent of the applicant as well as under the FCRA, from full court information will eliminate the ability of our member companies to correctly match and attribute this data to the correct individual. This could jeopardize the ability of employers and landlords in Arizona to have accurate data about potential employees or tenants. In addition, this scope is beyond just the Arizona border, as it would limit the ability of potential employees or tenants to have information from the Arizona courts which may be relevant to their hiring and leasing decisions in other areas.

There are hundreds of thousands of people with the same name born in the same year. The month and day gives additional separation of offenders from innocent individuals with the same name who happen to be born in the same year. Without this identifier, Arizona residents may be forced to prove they are not the offender with the same name and will negatively affect the ability for individuals with common names to swiftly clear criminal background screening checks.

By way of example, loss of complete DOB information increases the likelihood of "false positives". For example, Jim Jones born in 1970 and is an applicant to be a school security guard is incorrectly associated with a Jim Jones born in 1970 who has a record of sexual crimes against children. This type of situation jeopardizes the ability of law abiding citizens from expeditiously accessing employment. Common names lead to a need for increased certainty when conducting background checks so as to protect the Arizona citizens who do not have a criminal past but who may share a common name and birth year with someone who does.

NAPBS greatly appreciates your consideration of our comments. Should there be any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Seabrook". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping underline.

Tracy Seabrook, CAE

NAPBS Executive Director